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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/656,150	09/08/2003	Robert B. Anderson	P68240US1	1349
136	7590	08/06/2004	EXAMINER	
JACOBSON HOLMAN PLLC 400 SEVENTH STREET N.W. SUITE 600 WASHINGTON, DC 20004			KRECK, JOHN J	
			ART UNIT	PAPER NUMBER
			3673	

DATE MAILED: 08/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/656,150	Applicant(s) ANDERSON, ROBERT B.	
	Examiner John Kreck	Art Unit 3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16-22 is/are allowed.
- 6) ☒ Claim(s) 1-7 and 9-15 is/are rejected.
- 7) ☒ Claim(s) 8 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on ____ is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by WO99/16979.

The WO document shows a wall panel for construction of a retaining wall including at least one slot, the slot having first portion (22), second portion (5), and third portion(4) as called for claim 1.

The WO document also teaches the concrete as called for in claim 2.

The WO document also teaches the multiplicity as called for in claim 3.

The WO document also teaches the slots spaced laterally (fig 2) as called for in claim 4.

The WO document also teaches the slots spaced vertically (fig 2) as called for in claim 5.

The WO document also teaches the slots spaced laterally and vertically (fig 2) as called for in claim 6.

The WO document also teaches the locking portion extends upwardly (see the upper face indicated by 3 and 4 in figure1) toward the rear face as called for in claim 7.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 9-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 99/16979 in view of Price, et al. (U.S. Patent number 6,224,295).

The WO document teaches the retaining wall including a panel with a slot, the slot having first, second, and third portions; and sheet-like reinforcing material.

The WO document fails to teach the flat connection bar. Note that the WO document discloses that the connection bar (7) is "an elongate rod or beam" page 3, last line; and that "the rod 7 and the second chamber 3 can be configured to have elongate parallel surfaces" page 5, second paragraph.

Price teaches a similar system with a flat connection bar (fig. 4). It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the WO system to have a flat connection bar as called for in claim 9, since the shape is largely a matter of design choice. See, e.g. *In re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1966)

The WO document also teaches the concrete as called for in claim 10.

The WO document also teaches the polymeric sheet as called for in claim 11.

The WO document also teaches the geogrid as called for in claim 12.

The WO document also teaches the plurality as called for in claim 13.

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The WO document also teaches the plurality as called for in claim 14.

The WO document also teaches the plurality as called for in claim 15.

Allowable Subject Matter

3. Claims 16-21 are allowed.

4. Claim 8 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. The following is an examiner's statement of reasons for allowance: the prior art of record fails to disclose the method including the steps of folding; seating a connection bar; pushing; providing a wedge; pushing the wedge; and angularly camming as called for in claim 16.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."


6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Scales, et al. (U.S. Patent number 6,443,663); Tremblay, et al. (U.S. Patent number 5,634,741); Borgersen, et al. (U.S. Patent number 6,318,934); and Brown, et al. (U.S. Patent number 4,824,293) teach similar systems.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Kreck whose telephone number is (703)308-2725. The examiner can normally be reached on M-F 5:30 am - 2:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on (703)308-2978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

John Kreck
Examiner
Art Unit 3673



JOHN KRECK
PRIMARY EXAMINER

JJK